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The Secretary of State presents her compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and wishes to clarify tax exemption and imposition of fees and surcharges on utility services.

The Department Office of Foreign Missions (OFM) broadly defines utility services to include electricity, heating fuel, telephone, cellular phone, cable/satellite television, water/sewer, internet, and paging. Unlike most commodities in the United States, utility services are subject to taxation at the federal, state, and local levels. In addition to taxes, governing authorities and utility providers may also impose fees and surcharges associated with the provision of such services. Therefore, it is easily understood as to why the various taxes, fees, and surcharges that appear in utility billing statements create confusion within the foreign mission community, especially as to the proper provision of diplomatic tax-relief privileges.

However, OFM assures those foreign missions and members which are reciprocally eligible for the privilege of utility tax relief, that they are receiving or will receive the full benefit of this privilege following OFM's receipt of a completed form DS-98 "Application for Diplomatic Exemption From Taxes on

Utilities.” This form and its instructions are available online at [www.state.gov/ofm/tax/utilities/](http://www.state.gov/ofm/tax/utilities/).

The foreign missions are reminded that the Vienna Conventions do not require or provide a basis for the relief of fees or surcharges that represent payments for the rendering of specific services. Therefore, there is no legal basis for the Department to restrict taxing jurisdictions or utility providers from levying this surcharge for utility services provided to the foreign missions community and it is appropriate for such charges to appear on their utility billing statements.

One utility related charge that sometimes causes confusion is the Gross Receipts Tax Surcharge. This surcharge is incorrectly labeled by some utility providers on billing statements as “Gross Receipts Tax” or “Delivery Tax.” This charge is not a tax, but a surcharge levied in the District of Columbia on all utility accounts; however, other local taxing authorities, such as Montgomery County, Maryland, and New York City similarly impose this surcharge.

A common example of a fee that is associated with utility services is the “911 Emergency Response Fee.” This fee is imposed by most local taxing authorities throughout the United States as compensation for providing emergency response services to the public. This charge, and others like it, represents fees for

services rendered and therefore there is no legal basis for exempting such fees on the basis of diplomatic status.

More information on the Department's Utility Tax Exemption Program is available at the OFM website [www.state.gov/ofm](http://www.state.gov/ofm). If foreign missions have further questions concerning this issue they should contact the closest OFM Headquarters or its closest regional office.

Department of State,

Washington, MAR 27 2005

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